

AN ORDINANCE**BY COUNCILMEMBER LEE MORRIS**

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH CARTER & ASSOCIATES, L.L.C., FOR THE PURPOSE OF SUPERVISING THE CONSTRUCTION OF CERTAIN INFRASTRUCTURE PROJECTS CONNECTED WITH THE TRANSIT ORIENTED DEVELOPMENT AT THE LINDBERGH CENTER MARTA STATION; AUTHORIZING THE PAYMENT OF INVOICES FOR THE CONSTRUCTION OF CERTAIN INFRASTRUCTURE PROJECTS AS NECESSARY TO PAY THE CITY'S LOCAL MATCHING PORTION OF CERTAIN FEDERALLY FUNDED PROJECTS; AUTHORIZING THE APPLICATION OF FUTURE TRANSPORTATION IMPACT FEE CREDITS TO CARTER AND ASSOCIATES IN EXCHANGE FOR THE PROVISION OF FUNDS NECESSARY TO SUPPLEMENT THE CITY'S LOCAL MATCHING PORTION; AUTHORIZING AN EXTENSION OF THE DATE BY WHICH IMPACT FEES COMMITTED BY ORDINANCE 99-O-0941 MUST BE OBLIGATED TO CONSTRUCTION PROJECTS AND FOR OTHER PURPOSES.

WHEREAS, it is a policy of the City to encourage nodal land use patterns and mixed use development around certain transit stations and selected major transportation intersections; and

WHEREAS, Carter & Associates, L.L.C. ("Carter") has undertaken construction of new development at 2424 Piedmont Road more generally known as Lindbergh City Center and which is directly accessible to the Lindbergh Center MARTA transit station; and

WHEREAS the City imposes a transportation impact fee as a condition of the approval of new development to cause the developer to pay a proportionate share of the cost of system improvements needed to serve new growth and development; and

WHEREAS Carter was required to pay transportation impact fees in connection with the construction of Lindbergh Center; and

WHEREAS, Ordinance 99-O-0941 designated certain projects listed by the Atlanta Regional Commission ("ARC") and the Georgia Department of Transportation ("GDOT")

as projects which qualify for matching funds under the Transportation Equity Act for the 21st Century ("TEA-21"); and

WHEREAS, the projects listed in Ordinance 99-O-0941 are in the nature of "system improvements," as defined O.C.G.A. § 36-71-2(18), for which transportation impact fees may be expended; and

WHEREAS, Ordinance 99-O-0941 directed the application of the transportation impact fees paid by Carter for its Lindbergh Center development to be used for the engineering, design and construction work connected with the improvement of the transportation infrastructure system in the immediate area, but required that such funds be obligated to construction projects by December 31, 2001; and

WHEREAS, in Ordinance 01-O-0037 the City Council authorized the reimbursement of transportation impact fees to Carter where such fees had been used to fund preliminary engineering work for projects identified by Ordinance 99-O-0941 and such preliminary engineering costs do not qualify as local matching funds; and

WHEREAS, the availability of a local matching funds component is a requirement that the City must meet in order to utilize TEA-21 funds under the GDOT Local Government Project Agreements ("LGPA") already in place; and

WHEREAS, if the funds made available by TEA-21 are to be utilized, the City must provide a local matching portion equal to 20% of the project budget, such that the date for expiration of the funding commitment must be extended in order to have such impact fees available for the City's local match or reimbursement of engineering fees; and

WHEREAS, the reimbursement of preliminary engineering costs authorized by Ordinance 01-O-0037 has reduced the amount of transportation impact fees available for the City's local matching funds; and

WHEREAS, to the extent that the funds appropriated by Ordinance 99-O-0941 have been disbursed pursuant to Ordinance 01-O-0037, or are otherwise insufficient, Carter will agree to provide funding for the City's local matching portion necessary to secure federal funding for two projects for which LGPA's are already in place, if the City agrees that Carter will be given transportation impact fee credits in the amount of the funding so provided by Carter, which can be used to pay future transportation impact fees associated with further development at Lindbergh City Center; and

WHEREAS, the City of Atlanta believes that a public and private partnership to begin those projects which can be fully funded immediately offers unique opportunities to significantly improve access and traffic flow to the transit oriented development at the Lindbergh Center MARTA Station; and

WHEREAS, the City desires to continue the momentum of development in the area of the

Lindbergh Center MARTA Station by leveraging available federal funds and Carter desires to work with the City to supervise the design, engineering, and construction work associated with access and traffic flow to the transit oriented development in the area of the Lindbergh Center MARTA Station by acting as the construction manager for projects identified by the ARC and GDOT as AT-AR BP 138 / 762518, CM-00BK(31) (Lindbergh Drive) and AT-AR BP 293 / 762624, CM-7626-00(240) (Peachtree Hills Avenue) (collectively, the "Projects," individually "Lindbergh" and "Peachtree Hills") under the terms provided in the Agreement authorized by this ordinance; and

WHEREAS, the implementation of a third project, which is intended to improve E. Wesley Rd. from Peachtree Rd. to Piedmont Rd., identified by the ARC as AT-AR BP 301(E. Wesley Rd.) may follow these projects as soon as is reasonably possible and when funding is available; and

**THE CITY COUNCIL OF THE CITY OF ATLANTA GEORGIA HEREBY ORDAINS
AS FOLLOWS:**

- Section One: The Mayor is authorized to enter into a contract with Carter which is substantially in the form attached as Exhibit "A", to act as construction manager for contractors hired by the City to complete the scope of work in the LGPA's for Lindbergh and Peachtree Hills which are attached as Exhibit "B."
- Section Two The Mayor is authorized to enter into one or more contracts to complete the scope of work in the LGPA's for Lindbergh and Peachtree Hills which are attached as Exhibit "B." provided that no contract commits the City to expend transportation impact fees or other funds for those projects in excess of that which has already been appropriated by Ordinance 99-O-0941 and 01-O-0037.
- Section Three: Consistent with the terms of the LGPA's attached as Exhibit B, which have already been authorized by previous action of the City Council, the Chief Financial Officer is authorized to pay such invoices which are generated by the contracts to complete the scope of work contained therein or to apply to the Georgia Department of Transportation for payment for work that has been completed pursuant to the contracts authorized herein, provided that all such invoices have been approved for payment by the Commissioner of Planning, Development and Neighborhood Conservation.
- Section Four: The Mayor is authorized to enter an agreement, approved by the City Attorney, which allows Carter to be given credits against future transportation impact fees which would be imposed on development reasonably related to Lindbergh City Center in an amount equal to the funds actually provided by Carter towards the funding of the local

match component required by the LGPA's for Lindbergh and Peachtree Hills.

- Section Five: The Mayor is authorized to amend the contract with Carter to include the management of the of the E. Wesley Road improvements as described in ARC project number AT-AR BP 301 if sufficient funds become available to meet the local match portion of that project prior to the expiration of the contract with Carter.
- Section Six: The date by which impact fee funds committed to the projects by Ordinance 99-O-0941 is extended until December 31, 2003.
- Section Seven: Carter shall be reimbursed for out of pocket expenses reasonably incurred in completion of the contract and paid a flat fee which in total shall not to exceed 3% of the total costs incurred in the construction of the projects undertaken pursuant to this Ordinance. Said amounts to be paid from FAC 1C28 592001 M11X0 451 9985 (Trans. Impact Fee Reserve) on the schedule provided in the contract.
- Section Eight: The contract authorized by this ordinance shall not become effective until it has been signed by Mayor and delivered to Carter.

LARGE ATTACHMENT:

DOCUMENT(S),

MANUAL(S)

OR

MAP(S)

NOT COPIED,

PULL ORIGINAL

FOR COPY OR TO VIEW